

ATTACHMENT C

Part VI, Section 4. Garnishment and Turnover

RULE 660. FUNDS SEIZED BY TURNOVER RECEIVER

After a turnover receiver seizes funds belonging to a judgment debtor, such funds shall be held in escrow and not disbursed for a period of 30 days after service of notice to judgment debtor under Rule 660b. If a judgment debtor files a Turnover Exemption Claim Form, similar instrument, or a motion to return exempt funds, the funds shall remain in escrow until such time as the court has ruled on the judgment debtor's claim of exemption.

RULE 660a. NOTICE TO JUDGMENT DEBTOR

(a) *General Rule.* The judgment debtor shall be served with the following documents by the turnover receiver:

- (1) The Turnover Notice in Plain Language;
- (2) Instructions to fill out the Turnover Exemption Claim Form;
- (3) Two copies of the Turnover Exemption Claim Form;
- (4) A copy of any letter, with accompanying attachments, sent by the turnover receiver to the financial institution.

(b) *Supreme Court Form; Clerk to Provide.* The turnover receiver must serve the Turnover Notice in Plain Language form in at least eleven-point type, the Turnover Exemption Claim Form, and the related instructions approved by the Supreme Court. In asserting an exemption or exemptions, the judgment debtor must use the Turnover Exemption Claim Form approved by the Supreme Court, or any document claiming an exemption that substantially provides the information required by the Court-approved form. The clerk must make the Court-approved forms available to all persons without charge or request.

(c) *Manner of Service.* The documents referenced in Subsection (a) shall be served by service of citation or as provided in Rule 21a.

(d) *Timing of Service.* Service under Subsection (a) by the turnover receiver must occur within 3 business days after the receiver receives actual notice of the freezing or receipt of any of a judgment debtor's funds or personal property at a financial institution, whichever occurs at an earlier date.

(e) *Order of Required Documents.* Any service of the documents in Subsection (a) shall be in the specific order designated in Subsection (a).

RULE 660b. CLAIM TO EXEMPTION; RETURN OF EXEMPT FUNDS

(a) *General Rule for Post-Judgment Turnover Receivership.* A judgment debtor whose property or account has been seized post-judgment or any intervening party who claims an interest in such property or account may file one or more of the following documents:

- (1) The Turnover Exemption Claim Form;
- (2) A substantial equivalent to the Turnover Exemption Claim form; or
- (3) A motion to return exempt funds or funds owned by a third party.

(b) *Hearing.* Unless the parties agree to an extension of time, a hearing on the motion and/or claim to exemption filed under Subsection (a) shall be heard promptly, after reasonable notice to the judgment creditor and the turnover receiver (which may be less than three days), and a hearing shall be scheduled and the issue determined not later than ten days after the motion or exemption claim is filed. The filing of the motion or exemption claim shall stay any disbursement of seized funds until a hearing is held and the issue is determined.

(c) *Motion for Return of Exempt Funds or Funds Owned by a Third Party.*

- (1) Any funds seized by a turnover receiver shall be returned to the judgment debtor unless, at such hearing, the turnover receiver shall prove that all required procedures have been followed.
- (2) The movant shall, however, have the burden to prove that all or part of the value of the personal property is exempt.
- (3) The court's determination may be made upon the basis of affidavits or declarations, if uncontroverted, setting forth such facts as would be admissible in evidence; otherwise, the parties shall submit evidence.

(e) *Claim to Exemption.* On a hearing of a claim to exemption, the court shall determine whether the judgment debtor has an applicable exemption to all or part of the personal property being seized by the turnover receiver. Any personal property found to be exempt shall be ordered to be returned to the judgment debtor within no more than three business days. In addition, the court may determine that certain personal property seized by a turnover receiver belongs to a third party or third parties and order its return within no more than three business days.